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SEP 30 2005

OFFICE OF PETITIONS

In re Application of
David O. McGoveran
Application No. 09/476,711
Filed: December 30, 1999
Title of Invention: DECLARATIVE METHOD
FOR BUSINESS MANAGEMENT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed January 13, 2005. A shortened statutory period of three months was set for replying to the Final Office Action. A Request for Continued Examination and an amendment were filed on July 12, 2005. Although an authorization to charge petitioner's deposit account for any necessary extension of time fees was given, the deposit account was not charged. Even though the period for response was not extended to July 12, 2005, the RCE and amendment filed July 12, 2005 were considered.

The amendment filed July 12, 2005 as the submission with the RCE however, was deemed non-compliant and thus did not meet the requirements of 37 CFR 1.121. A Notice of Non-Compliant Amendment was mailed July 28, 2005.

As indicated in the Notice of Non-Compliant Amendment, the period for reply ran from the Final Office Action mailed January 13, 2005 and thus in view of the non-compliant amendment the application became abandoned. The instant petition under 37 CFR 1.137(b)¹ and this decision precede the mailing of the Notice of Abandonment.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

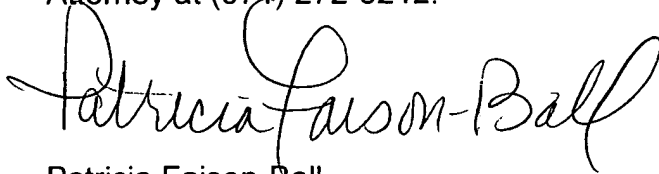
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

With the instant petition to revive, petitioner has submitted another amendment as the submission for the RCE filed July 12, 2005 and as required under 37 CFR 1.114.

A one month extension of time was also filed with the instant petition but since the period for reply ran from the final office action, January 13, 2005, the extension of time filed September 2, 2005, was subsequent to the maximum period obtainable for reply and it couldn't operate to prevent the application from becoming abandoned. The fee is therefore unnecessary and will be credited back to counsel's deposit account no. 50-0705.

This matter is being referred to Technology Center 3623 for processing of the RCE and the amendment.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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- (2) the petition fee as set forth in 37 CFR 1.17(m);
 - (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
 - (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).